

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.
★ **Feb 4 2009** ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DIANE KLEIMAN,

Plaintiff,

-against-

PAUL O'NEILL,

Defendant.

REPORT AND
RECOMMENDATION

03-CV-3829 (ERK)

s/Edward R. Korman

Order
See
recommendation
of Hon. U.S. Magistrate
TS adopted
1/27/09

ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

On September 26, 2008, Ronald Tonkin ("Tonkin"), the attorney for plaintiff Diane Kleiman ("Kleiman")¹ in this Title VII employment discrimination case, submitted a motion to withdraw as counsel for Kleiman. See 9/26/08 Motion to Withdraw as Attorney for Diane Kleiman ("Motion to Withdraw"). In response to that motion, Kleiman personally addressed a letter to the Court in which she did not oppose Tonkin's withdrawal from the case, but did allege that Tonkin failed to return her case files and unlawfully retained approximately \$25,000 of her funds. See 10/15/08 Letter from Kleiman ("Kleiman Letter"), at 2. On October 27, 2008, Judge Edward R. Korman granted the unopposed application to withdraw and referred Kleiman's request for relief to the undersigned magistrate judge. See 10/27/08 Order Granting Motion to Withdraw ("10/27/08 Order"); 10/27/08 Order Referring Application to Judge Mann. For the following reasons, this Court (1) directs Tonkin to immediately return any of Kleiman's files remaining in his possession, including those containing attorney work product, and (2) recommends that the District Court decline to exercise supplemental jurisdiction with

¹ The docket sheet incorrectly refers to the plaintiff as "Diane Kleinman."